



Reprinted - Printer's Reprint
February 3, 2004

SENATE BILL No. 225

DIGEST OF SB 225 (Updated February 2, 2004 6:14 pm - DI 44)

Citations Affected: IC 1-1; IC 6-1.1; IC 36-1; IC 36-4; IC 36-12.

Synopsis: Reorganization of municipal corporations in Allen County. Provides an optional method for governmental reorganization in Allen County. Changes the population parameters for first and second class cities so that reorganization does not change a city's classification. Provides for establishing and appointing members to a reorganization commission. Requires the commission to develop a plan for reorganization that may include consolidation of governments in the county. Provides that if a reorganization commission decides to proceed with a government reorganization a local public question on the government reorganization must be submitted to all voters in the county. Provides transition mechanisms for reorganized units.

Effective: Upon passage.

**Long, Wyss, Lanane, Meeks C,
Broden**

January 8, 2004, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.
January 29, 2004, amended, reported favorably — Do Pass.
February 2, 2004, read second time, amended, ordered engrossed.

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SB 225—LS 6799/DI 87+



Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 225

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 1-1-4-5, AS AMENDED BY P.L.170-2002,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 5. The following definitions apply to the
4 construction of all Indiana statutes, unless the construction is plainly
5 repugnant to the intent of the general assembly or of the context of the
6 statute:

7 (1) "Adult", "of full age", and ~~"person in his "~~**"age of majority"**
8 ~~mean~~ **refer to** a person at least eighteen (18) years of age.

9 (2) "Attorney" includes a counselor or other person authorized to
10 appear and represent a party in an action or special proceeding.

11 (3) "Autism" means a neurological condition as described in the
12 most recent edition of the Diagnostic and Statistical Manual of
13 Mental Disorders of the American Psychiatric Association.

14 (4) "Bond" does not necessarily imply a seal.

15 (5) "Clerk" means the clerk of the court or a person authorized to
16 perform the clerk's duties.

17 (6) **"Consolidated city" refers to a first class city that has**

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become a consolidated city under IC 36-3-1.

(7) "Health record", "hospital record", or "medical record" means written or printed information possessed by a provider (as defined in IC 16-18-2-295) concerning any diagnosis, treatment, or prognosis of the patient, unless otherwise defined. Except as otherwise provided, the terms include mental health records and drug and alcohol abuse records.

~~(7)~~ (8) "Highway" includes county bridges and state and county roads, unless otherwise expressly provided.

~~(8)~~ (9) "Infant" or "minor" means a person less than eighteen (18) years of age.

~~(9)~~ (10) "Inhabitant" may be construed to mean a resident in any place.

~~(10)~~ (11) "Judgment" means all final orders, decrees, and determinations in an action and all orders upon which executions may issue.

~~(11)~~ (12) "Land", "real estate", and "real property" include lands, tenements, and hereditaments.

~~(12)~~ (13) "Mentally incompetent" means of unsound mind.

~~(13)~~ (14) "Money demands on contract", when used in reference to an action, means an action arising out of contract when the relief demanded is a recovery of money.

~~(14)~~ (15) "Month" means a calendar month, unless otherwise expressed.

~~(15)~~ (16) "Noncode statute" means a statute that is not codified as part of the Indiana Code.

~~(16)~~ (17) "Oath" includes "affirmation", and "to swear" includes to affirm.

~~(17)~~ (18) "Person" extends to bodies politic and corporate.

~~(18)~~ (19) "Personal property" includes goods, chattels, evidences of debt, and things in action.

~~(19)~~ (20) "Population" has the meaning set forth in IC 1-1-3.5-3.

~~(20)~~ (21) "Preceding" and "following", referring to sections in statutes, mean the sections next preceding or next following that in which the words occur, unless some other section is designated.

~~(21)~~ (22) "Property" includes personal and real property.

~~(22)~~ (23) "Sheriff" means the sheriff of the county or another person authorized to perform sheriff's duties.

~~(23)~~ (24) "State", applied to any one of the United States, includes the District of Columbia and the commonwealths, possessions, states in free association with the United States, and the territories. "United States" includes the District of Columbia and

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the commonwealths, possessions, states in free association with the United States, and the territories.

~~(24)~~ (25) "Under legal disabilities" includes persons less than eighteen (18) years of age, mentally incompetent, or out of the United States.

~~(25)~~ (26) "Verified", when applied to pleadings, means supported by oath or affirmation in writing.

~~(26)~~ (27) "Will" includes a testament and codicil.

~~(27)~~ (28) "Without relief" in any judgment, contract, execution, or other instrument of writing or record, means without the benefit of valuation laws.

~~(28)~~ (29) "Written" and "in writing" include printing, lithographing, or other mode of representing words and letters. If the written signature of a person is required, the terms mean the proper handwriting of the person or the person's mark.

~~(29)~~ (30) "Year" means a calendar year, unless otherwise expressed.

~~(30)~~ (31) The definitions in IC 35-41-1 apply to all statutes relating to penal offenses.

SECTION 2. IC 6-1.1-18.5-7, AS AMENDED BY P.L.90-2002, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A civil taxing unit is not subject to the levy limits imposed by section 3 of this chapter for an ensuing calendar year if the civil taxing unit did not adopt an ad valorem property tax levy for the immediately preceding calendar year.

(b) If under subsection (a) a civil taxing unit is not subject to the levy limits imposed under section 3 of this chapter for a calendar year, the civil taxing unit shall refer its proposed budget, ad valorem property tax levy, and property tax rate for that calendar year to the local government tax control board established by section 11 of this chapter before the tax levy is advertised. The local government tax control board shall then review and make a recommendation to the department of local government finance on the civil taxing unit's budget, ad valorem property tax levy, and property tax rate for that calendar year. The department of local government finance shall make a final determination of the civil taxing unit's budget, ad valorem property tax levy, and property tax rate for that calendar year. ~~However,~~ **Except as provided in IC 36-12-7-9**, a civil taxing unit may not impose a property tax levy for a year if the unit did not exist as of March 1 of the preceding year.

SECTION 3. IC 36-1-2-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE

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UPON PASSAGE]: **Sec. 4.2. "Consolidated city" refers to a first class city that has become a consolidated city under IC 36-3-1.**

SECTION 4. IC 36-1-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b) **and (c)**, a unit may exercise any power it has to the extent that the power:

- (1) is not expressly denied by the Indiana Constitution or by statute; and
- (2) is not expressly granted to another entity.

(b) A township may not exercise power the township has if another unit in which all or part of the township is located exercises that same power.

(c) A unit may exercise the power of another entity if:

- (1) the exercise is in accordance with a reorganization plan under IC 36-12 that reorganizes both the unit and the other entity; and**
- (2) the reorganized unit is not expressly prohibited from exercising the power by statute, rule, or other law.**

SECTION 5. IC 36-1-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The area inside the boundaries of a county comprises its territorial jurisdiction. However, a municipality has exclusive jurisdiction over bridges (subject to IC 8-16-3-1), streets, alleys, sidewalks, watercourses, sewers, drains, and public grounds inside its corporate boundaries, unless a statute provides otherwise.

(b) The area inside the corporate boundaries of a municipality comprises its territorial jurisdiction, except to the extent that a statute expressly authorizes the municipality to exercise a power in areas outside its corporate boundaries.

(c) Whenever a statute authorizes a municipality to exercise a power in areas outside its corporate boundaries, the power may be exercised:

- (1) inside the corporate boundaries of another municipality, only if:
 - (A) both municipalities, by ordinance, enter into an agreement under IC 36-1-7; or**
 - (B) the power is exercised in accordance with a reorganization plan under IC 36-12 that reorganizes both municipalities; or**

- (2) in a county other than the county in which the municipal hall is located, but not inside the corporate boundaries of another municipality, only if both the municipality and the other county, by ordinance, enter into an agreement under IC 36-1-7.

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(d) If the two (2) units involved under subsection (c) cannot reach an agreement, either unit may petition the circuit or superior court of the county to hear and determine the matters at issue. The clerk of the court shall issue notice to the other unit as in other civil actions, and the court shall hold the hearing without a jury. There may be a change of venue from the judge but not from the county. The petitioning unit shall pay the costs of the action.

SECTION 6. IC 36-4-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Municipalities are classified according to their status and population as follows:

STATUS AND POPULATION	CLASS
Cities of 250,000 600,000 or more	First class cities
Cities of 35,000 to 249,999 599,999	Second class cities
Cities of less than 35,000	Third class cities
Other municipalities of any population	Towns

(b) Except as provided in subsection (c), a city that attains a population of thirty-five thousand (35,000) remains a second class city even though its population decreases to less than thirty-five thousand (35,000) at the next federal decennial census.

(c) The legislative body of a city to which subsection (b) applies may, by ordinance, adopt third class city status.

SECTION 7. IC 36-12 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 12. REORGANIZATION OF MUNICIPAL CORPORATIONS

Chapter 1. Applicability and Definitions

Sec. 1. This article applies only to Allen County.

Sec. 2. The general assembly finds that Allen County and Fort Wayne are subject to special circumstances that justify special legislation to allow them to change their government structure:

(1) Fort Wayne is the city with the second largest population in Indiana and comprises over sixty percent (60%) of the population of Allen County.

(2) Allen County is geographically the largest county in Indiana.

(3) Allen County constitutes a unique combination of urban, suburban, and rural geography.

(4) Fort Wayne is the economic and cultural center of a six (6) county region in Indiana as well as a part of southeast Michigan and northeast Ohio. Fort Wayne serves as a

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highway, railroad, and air transportation corridor for these areas.

(5) Fort Wayne has experienced accelerated growth as follows:

(A) The 1990 decennial census and 2000 decennial census figures indicate that Fort Wayne:

(i) increased its population by thirty-two thousand six hundred fifty-five (32,655) to a total population of two hundred five thousand seven hundred twenty-seven (205,727); and

(ii) increased its land area by sixteen and twenty-five hundredths (16.25) square miles to a total land area of seventy-eight and ninety-five hundredths (78.95) square miles.

(B) As of June 1, 2003, as a result of annexations that occurred after the 2000 decennial census, Fort Wayne increased:

(i) its population by an estimated fifteen thousand (15,000) to a total estimated population of two hundred twenty thousand (220,000); and

(ii) its land area by an estimated eleven (11) square miles to a total estimated land area of more than ninety (90) square miles.

(C) As of January 1, 2006, as the result of another annexation of territory, Fort Wayne will increase:

(i) its population by an estimated twenty-three thousand (23,000) to an estimated two hundred forty-three thousand (243,000); and

(ii) its land area by an estimated twelve (12) square miles.

(6) Fort Wayne's rapid growth has created overlapping jurisdictions and duplication of services among various local governmental units and has made it increasingly difficult for these units to pay for the provision of services.

(7) Like Indianapolis, Fort Wayne is a dense metropolitan area that would benefit from a consolidation of government functions and more centralized control over the metropolitan area.

(8) Considerable community support exists from the business, political, civic, and educational sectors, and the general population to review the structure of local government in Allen County.

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1 Sec. 3. The definitions in this chapter apply throughout this
2 article.

3 Sec. 4. "Appointing authority" refers to a person who appoints
4 a member of a government reorganization commission.

5 Sec. 5. "Commission" refers to a government reorganization
6 commission established under this chapter.

7 Sec. 6. "Excluded municipality" means:

8 (1) a third class city; or

9 (2) a town;

10 that acts under IC 36-12-4 to be excluded from government
11 reorganization.

12 Sec. 7. "Included municipality" means:

13 (1) a third class city; or

14 (2) a town;

15 that does not act under IC 36-12-4 to be excluded from government
16 reorganization.

17 Sec. 8. "Initial appointment of all members" means the
18 appointment of members under IC 36-12-3-3. The term does not
19 include the filling of vacancies on the commission or an
20 appointment under IC 36-12-4-2.

21 Sec. 9. "Municipal corporation" means a county, city, town,
22 township, library district, local housing authority, fire protection
23 district, public transportation corporation, local building
24 authority, local hospital authority or corporation, local airport
25 authority, special service district, or any other separate local
26 governmental entity that may sue and be sued. The term does not
27 include a special taxing district or a school corporation.

28 Sec. 10. "Municipality" means a city or a town.

29 Sec. 11. "Person" means an individual, a corporation, a limited
30 liability company, a partnership, a governmental agency, a
31 political subdivision, or other legal entity.

32 Sec. 12. "Plan" refers to a government reorganization plan
33 developed under this article.

34 Sec. 13. "Special service district" refers to a separate taxing
35 district within which a municipal corporation levies and collects
36 taxes in accordance with the kind, type, level, and character of
37 services provided in the district.

38 Chapter 2. General Reorganization Powers

39 Sec. 1. A municipal corporation may reorganize as set forth in
40 this article by changing any of the following:

41 (1) Governmental structure, including:

42 (A) consolidating or merging municipal corporations;

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(B) consolidating or merging agencies, departments, commissions, or services of municipal corporations; or
(C) eliminating or creating a municipal corporation.

(2) Governmental finance.

(3) Governmental services.

(4) Governmental efficiency.

Sec. 2. A charter school may not be established under this article.

Sec. 3. A reorganized municipal corporation is subject to audit by the state board of accounts under IC 5-11-1-9.

Sec. 4. A reorganized municipal corporation is subject to the home rule provisions set forth in IC 36-1-3.

Sec. 5. A reorganized municipal corporation is subject to the following:

(1) Any general law of the state that does not conflict with the powers granted to a reorganized municipal corporation under this article.

(2) Statutes, laws, or rules that specifically govern a reorganized municipal corporation.

(3) The charter of the reorganized municipal corporation.

(4) Ordinances, resolutions, or bylaws of the reorganized municipal corporation.

Sec. 6. A reorganized municipality may not diminish the rights or privileges of any former municipal employee or present municipal employee in the employee's pension or retirement system.

Chapter 3. Government Reorganization Commission

Sec. 1. Before a municipal corporation may reorganize under this article, a commission must be established.

Sec. 2. A commission is established when:

(1) the county fiscal body and the fiscal body of the second class city within the county each adopt a resolution to establish a commission; or

(2) a resident of the county files with the county election board a petition that:

(A) is signed by the number of registered voters equal to at least five percent (5%) of the votes cast within the county in the most recent general election for the office of secretary of state;

(B) asks that a commission be established under this chapter; and

(C) requests a local public question on the question of

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government reorganization.

Sec. 3. Appointing authorities shall appoint members of a commission not more than sixty (60) days after a commission is established.

Sec. 4. Appointments to the commission shall be made as follows:

(1) Five (5) members appointed jointly by the city executive of the second class city located within the county.

(2) Five (5) members appointed by the city legislative body of the second class city located within the county.

(3) One (1) member appointed jointly by the city executive of each third class city located within the county.

(4) One (1) member appointed jointly by the city fiscal body of each third class city located within the county.

(5) One (1) member appointed jointly by the town legislative body of each town located in the county.

(6) Five (5) members appointed by the county executive body.

(7) Five (5) members appointed by the county fiscal body.

(8) Three (3) members appointed jointly by the township executives of the townships located within the county.

(9) One (1) member appointed jointly by the township assessors located within the county.

Sec. 5. An appointing authority may not appoint more than one (1) commission member who is an elected official.

Sec. 6. A member of the commission must be a resident of the county that is the subject of the commission.

Sec. 7. The commission shall select a chairperson and vice chairperson from among the membership of the commission.

Sec. 8. A commission member may not receive:

(1) a salary; or

(2) a per diem;

for performance of the commission member's duties. The member may receive reimbursement for expenses necessarily incurred in the performance of the commission member's duties.

Sec. 9. Except as provided in IC 36-12-4, if a vacancy occurs on a commission, the appointing authority for that position shall appoint a person to fill the vacancy.

Sec. 10. If a member fails to attend three (3) consecutive meetings of a commission, the member is removed from the commission.

Sec. 11. (a) This section applies to a commission established under section 2(1) of this chapter.

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- 1 (b) The expenses of the commission may be paid from:
- 2 (1) any public funds that are not prohibited from being
- 3 expended for this purpose by state, federal, or local law; and
- 4 (2) private funds.
- 5 (c) Any expenses of the commission that are not paid from the
- 6 funds described under subsection (b), shall be paid as follows:
- 7 (1) Fifty percent (50%) of the expenses shall be paid from the
- 8 county general fund.
- 9 (2) Fifty percent (50%) of the expenses shall be paid from the
- 10 general fund of the second class city located in the county.
- 11 Sec. 12. (a) This section applies to a commission established
- 12 under section 2(2) of this chapter.
- 13 (b) The expenses of the commission may be paid from any
- 14 combination of the following:
- 15 (1) The county general fund.
- 16 (2) The general fund of the second class city or an included
- 17 third class city.
- 18 (3) Any public funds that are not prohibited from being
- 19 expended for this purpose by state, federal, or local law.
- 20 (4) Private funds.
- 21 Sec. 13. Private funds donated to a commission may be used:
- 22 (1) to promote approval of a public question on government
- 23 reorganization; and
- 24 (2) for any other commission purpose.
- 25 Sec. 14. A commission may do the following and pay the
- 26 associated costs:
- 27 (1) Employ staff.
- 28 (2) Obtain secretarial, clerical, professional, or consultant
- 29 services.
- 30 (3) Engage in public information or education activities.
- 31 (4) Administer and perform the responsibilities of the
- 32 commission under this chapter.
- 33 Sec. 15. Subject to IC 36-12-4-3, an affirmative vote of a
- 34 majority of the members appointed to the commission is required
- 35 for the commission to take any action, including adopting a report.
- 36 Chapter 4. Excluded Municipalities
- 37 Sec. 1. (a) Except as provided in subsection (b), if the fiscal body
- 38 of a town or third class city adopts a resolution to exclude the
- 39 municipality from government reorganization, the municipality is
- 40 excluded as of the date the fiscal body adopts the resolution.
- 41 (b) A municipality may not adopt a resolution excluding the
- 42 municipality from government reorganization more than twelve

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(12) months after the initial appointment of all commission members.

Sec. 2. If a member appointed to the commission is a resident of an excluded town or excluded third class city, the remaining included towns or cities may remove the member and appoint a new member to the commission. The new member must be appointed not more than thirty (30) days after the town or city notifies the commission of its exclusion from the reorganization.

Sec. 3. An affirmative vote of the majority of the total number of members who are appointed to the commission after the membership is adjusted as set forth in this chapter is required for the commission to take any action, including adopting a report.

Chapter 5. Commission Responsibilities

Sec. 1. A commission shall study government reorganization and develop a government reorganization plan.

Sec. 2. If the plan proposes the government reorganization of a municipal corporation, service, or department, the plan must include the following charter provisions for the reorganized entity:

- (1) A name.
- (2) A form and structure.
- (3) Functions and powers.
- (4) Officers and their powers and duties.
- (5) An election of elected officials, if any.
- (6) For affected county and municipal legislative bodies, the following:
 - (A) Boundaries of legislative districts.
 - (B) A provision enabling the legislative body to alter boundaries of legislative districts.
- (7) Boundaries of special service districts, if any are proposed.
- (8) Corporate dissolution of any municipal corporation.
- (9) Transition provisions, including transition provisions regarding the timing of the elections of officials.
- (10) Procedures for amending the plan.

Sec. 3. The commission shall establish an Internet web site to provide the public with information concerning a government reorganization as set forth in this article.

Sec. 4. Not more than three (3) months after the initial appointment of all members of the commission, the commission shall do the following:

- (1) Develop a proposed budget that is sufficient to allow the commission to complete the plan.
- (2) Publish the proposed budget in a newspaper of general

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1 circulation throughout the county that has the commission.

2 (3) Post the proposed budget on the Internet web site
3 established under section 3 of this chapter.

4 Sec. 5. Not more than six (6) months after the initial
5 appointment of all members of the commission, the commission
6 shall conduct at least one (1) public hearing to receive information
7 and materials to assist the commission in preparing a plan.

8 Sec. 6. (a) Not more than nine (9) months after the initial
9 appointment of all members of the commission, the commission
10 shall submit to each appointing authority a preliminary report that
11 specifies whether the commission proposes to reorganize any
12 municipal corporations. The preliminary report may include a
13 proposed plan.

14 (b) The commission shall:

15 (1) distribute the preliminary report to each public library in
16 the county;

17 (2) post the preliminary report on the Internet web site
18 established under section 3 of this chapter; and

19 (3) publish a notice in a newspaper of general circulation
20 throughout the county that has the commission, notifying the
21 public of where a copy of the preliminary report may be
22 inspected or obtained.

23 Sec. 7. Not more than eighteen (18) months after the initial
24 appointment of all members of the commission, the commission
25 shall:

26 (1) submit a proposed plan to each:

27 (A) appointing authority; and

28 (B) public library in the county;

29 (2) post the proposed plan on the Internet web site established
30 under section 3 of this chapter; and

31 (3) publish a notice in a newspaper of general circulation
32 throughout the county that has the commission, notifying the
33 public of where a copy of the proposed plan may be inspected
34 or obtained.

35 Sec. 8. (a) Not more than thirty (30) days after the proposed
36 plan is submitted and posted under section 7 of this chapter, the
37 commission shall do the following:

38 (1) Receive written comments on the proposed plan from any
39 person.

40 (2) Conduct at least one (1) public hearing to receive oral or
41 written comments on the proposed plan from any person.

42 (b) After complying with subsection (a), the commission may

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1 revise the proposed plan. The commission shall disseminate the
 2 revised plan and publish a notice in accordance with section 7 of
 3 this chapter.

4 Sec. 9. (a) Except as provided in subsection (b), not more than
 5 twenty-one (21) months after the initial appointment of all
 6 members of the commission, the commission shall do the following:

7 (1) Submit a final report that contains the plan to each
 8 appointing authority.

9 (2) Post the final report including the plan on the Internet web
 10 site established under section 3 of this chapter.

11 (3) Certify a local public question on the approval of the plan
 12 to the county election board.

13 (b) If the commission makes a determination not to proceed
 14 with a government reorganization, the commission may only
 15 comply with subsection (a)(1) and (a)(2). The commission expires
 16 as set forth in section 10(3) of this chapter.

17 Sec. 10. A commission expires as follows:

18 (1) If a local public question submitted to the voters under this
 19 chapter is approved, the commission expires as provided in
 20 the transition provisions of the approved plan.

21 (2) If a local public question submitted to the voters under this
 22 chapter is rejected, the commission expires thirty (30) days
 23 after the certification of the election results under IC 3-12-4-9.

24 (3) If the commission makes a determination not to proceed
 25 with a government reorganization under section 9 of this
 26 chapter, the commission expires thirty (30) days after the final
 27 report is distributed to each appointing authority under
 28 section 9 of this chapter.

29 Chapter 6. Local Public Question

30 Sec. 1. The county election board shall place the public question
 31 on the ballot provided to all voters in the county at the earlier of
 32 the following:

33 (1) The first general election held after the certification of a
 34 public question on the approval of the plan.

35 (2) A special election if the county fiscal body and the fiscal
 36 body of the second class city in the county adopt an ordinance
 37 to order a special election on the public question.

38 Sec. 2. (a) A local public question shall be placed on the ballot as
 39 set forth in IC 3-10-9-4. The commission shall write the public
 40 question and the explanatory text for the public question.

41 (b) In addition to the requirements of subsection (a), the ballot
 42 on the local public question must contain a brief description and

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summary of the plan as written by the commission.

Sec. 3. At least one (1) month before the election on the local public question, the commission shall:

(1) Distribute copies of the full text of the plan to each public library in the county.

(2) Publish a notice in a newspaper of general circulation throughout the county that has the commission, notifying the public of where a copy of the full text of the plan may be inspected or obtained.

(3) Post the full text of the plan on the Internet web site established under IC 36-12-5-3.

Sec. 4. If the local public question is approved by a majority of the voters voting on the local public question, the county election board shall file a copy of the certification prepared under IC 3-12-4-9 concerning the local public question on the government reorganization plan with the following:

(1) The circuit court clerk of the county.

(2) The county auditor.

Sec. 5. Any statute not within this article that provides a procedure for consolidation, merger, dissolution, or incorporation does not apply to a government reorganization under this article.

Chapter 7. Effect of Reorganization

Sec. 1. Subject to sections 2 and 3 of this chapter, if a local public question is approved by a majority of the voters voting on the local public question, the following must occur in accordance with the transition provisions of the plan:

(1) Reorganized municipal corporations shall be established.

(2) Officials of reorganized municipal corporations shall be elected and sworn into their respective offices.

(3) Reorganized departments or services, if any, shall be established.

Sec. 2. (a) Except as provided in section 3 of this chapter, if a government reorganization requires an election of officers, the government reorganization takes effect when the officers of the new municipality are elected and qualified.

(b) If a government reorganization does not require an election of officers, the government reorganization takes effect in accordance with the transition provisions of the plan.

Sec. 3. (a) A government reorganization may not take effect during the year preceding a year in which a federal decennial census is conducted.

(b) If a government reorganization requires the election of

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officers of a reorganized municipal corporation, a government reorganization that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(c) If a government reorganization does not require the election of officers of a reorganized municipal corporation, a government reorganization that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect on a date:

(1) specified in the transition provisions of the reorganization plan; and

(2) after January 1 of the year in which a federal decennial census is conducted.

Sec. 4. Upon the corporate dissolution of a municipal corporation under this article, the following apply for purposes of all state and federal licensing and regulatory laws, statutory entitlements, gifts, grants-in-aid, governmental loans, or other governmental assistance under state or federal statutes, rules, or regulations:

(1) The entire geographic area and population of a reorganized municipal corporation that is established under this chapter shall be used when calculating and determining the distribution basis for the following:

(A) State or federal government statutory entitlements.

(B) Gifts.

(C) Grants-in-aid.

(D) Loans.

(E) Any form of governmental assistance that is not listed in this subdivision.

(2) Following a public hearing for which notice is published in a newspaper of general circulation throughout the county at least thirty (30) days before the public hearing takes place, the executive of a reorganized municipal corporation that is established under this chapter shall determine and designate to the appropriate state or federal agency those:

(A) geographic areas;

(B) parts of roads;

(C) segments of population; or

(D) combinations of the items listed in clauses (A) through (C);

that constitute rural or urban areas, roads, or populations, if

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1 this designation was previously required of any municipal
2 corporation that is reorganized under this chapter.

3 Sec. 5. (a) A reorganized municipal corporation established
4 under this article may exercise any constitutional or statutory
5 right, power, privilege, immunity, or responsibility of any
6 municipal corporation that was reorganized, if that right, power,
7 privilege, immunity, or responsibility is as follows:

8 (1) It exists on the day the reorganized municipal corporation
9 comes into existence.

10 (2) It is authorized or imposed after the reorganized
11 municipal corporation is established on a municipal
12 corporation of the kind that was reorganized to form the
13 reorganized municipal corporation.

14 (3) If the reorganized municipal corporation is a municipality,
15 it is authorized or imposed after the reorganized municipal
16 corporation is established upon a municipality of the same
17 class that the reorganized municipality belongs to as a result
18 of the combined populations of any included municipalities.

19 (4) It is expressly authorized for or imposed upon reorganized
20 municipal corporations.

21 (b) Rights, powers, privileges, or immunities exercised by a
22 reorganized municipal corporation under subsection (a) are
23 authorized for a reorganized municipal corporation despite the
24 repeal or amendment of the statutes on which the rights, powers,
25 privileges, or immunities are based, unless those statutes are
26 expressly repealed or amended for reorganized municipal
27 corporations.

28 Sec. 6. When a reorganized municipal corporation is established
29 under this article, the following occur:

30 (1) Unless specified otherwise in the government
31 reorganization plan, the ordinances, rules, resolutions,
32 bylaws, and regulations of each of the included municipal
33 corporations:

34 (A) remain in force within the territory to which they
35 applied before the reorganization; and

36 (B) continue in force until amended or repealed by the
37 legislative body or an administrative body of the
38 reorganized municipal corporation.

39 (2) Pending actions that involve any municipal corporation
40 that is reorganized shall be prosecuted to final judgment and
41 execution, and judgments rendered in those actions may be
42 executed and enforced against the reorganized municipal

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corporation without any change of the name of the plaintiff or defendant.

Sec. 7. Dissolution of a township government under this article does not affect the geographical boundaries of the township.

Sec. 8. (a) On the date the formation of a new municipal corporation takes effect, all money in the funds of each of the included municipal corporations is transferred to the reorganized municipal corporation. The reorganized municipal corporation:

(1) shall deposit the money in its funds that most closely correspond to the funds of the included municipal corporations; and

(2) may use the money to pay its operational and capital costs for the balance of the calendar year.

(b) After the date the formation of a new municipal corporation takes effect, the reorganized municipal corporation is entitled to receive all distributions of taxes and other revenue that would have been made to the included municipal corporations if the reorganization had not occurred. The reorganized municipal corporation shall deposit the money in its funds that correspond most closely to the funds of the included municipal corporations into which the taxes or other revenue would have been deposited if the reorganization had not occurred.

Sec. 9. (a) This section applies if a government reorganization requires the election of officers of the reorganized municipal corporation.

(b) If the officers of a reorganized municipal corporation are elected and qualified before July 1 of a year, the officers shall:

(1) obtain from the department of local government finance approval under IC 6-1.1-18.5-7 of:

(A) a budget;

(B) an ad valorem property tax levy; and

(C) a property tax rate;

(2) fix the annual budget under IC 6-1.1-17;

(3) impose a property tax levy; and

(4) take any action necessary to ensure the collection of fees and other revenue;

for the reorganized municipal corporation for the ensuing budget year.

(c) If the officers of a reorganized municipal corporation are elected and qualified after June 30 of a year:

(1) the tax levies and other revenue of the included municipal corporations:

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(A) are collected for the ensuing budget year in the same manner the collections would have been made if the reorganization had not occurred; and

(B) are considered for all purposes the tax levy and other revenue of the reorganized municipal corporation; and

(2) the officers of the reorganized municipal corporation shall:

(A) fund the corporation for the ensuing budget year using the combined tax levies and other revenue of the included municipal corporations; and

(B) take the actions described in subsection (b)(1) through (b)(4) for the reorganized municipal corporation for the budget year that next follows the ensuing budget year.

Sec. 10. (a) This section applies if, as a result of a government reorganization, municipal corporations consolidate or merge.

(b) On the date a reorganized municipal corporation takes effect:

(1) the included municipal corporations are abolished as separate entities;

(2) the territory of the reorganized municipal corporation includes all the territory that comprised the included municipal corporations before the reorganization;

(3) the agencies of the included municipal corporations are abolished;

(4) the functions of the abolished agencies are assigned to agencies of the reorganized municipal corporation;

(5) the:

(A) property;

(B) records;

(C) personnel;

(D) rights; and

(E) liabilities;

related to the functions of the abolished agencies are assigned to agencies of the reorganized municipal corporation; and

(6) subject to subsection (c), any bonds and other indebtedness of, or assumed by, the included municipal corporations are transferred to the reorganized municipal corporation.

(c) A reorganized municipal corporation may impose property taxes for the purpose of paying debt service on bonds or other indebtedness transferred to the reorganized municipal corporation as described in subsection (b)(6) only in the geographic area as of the date the bonds were issued or the other indebtedness was

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1 incurred of the included municipal corporation that issued the
2 bonds or entered into the other indebtedness.

3 **Chapter 8. Levy Adjustments**

4 **Sec. 1.** This chapter applies to municipal corporations
5 reorganized as described in IC 36-12-2-1 in a manner that:

6 (1) does not result in the creation of a new municipal
7 corporation; and

8 (2) assigns to one (1) of the corporations the responsibility to
9 perform:

10 (A) a function; or

11 (B) part of a function;

12 previously performed separately by one (1) or more other
13 corporations.

14 **Sec. 2.** The department of local government finance shall adjust
15 the maximum property tax levies authorized under IC 6-1.1-18.5
16 to reflect the adjusted responsibilities of reorganized municipal
17 corporations as described in section 1 of this chapter.

18 **Chapter 9. Nonseverability**

19 **Sec. 1.** For purposes of IC 1-1-1-8, if IC 36-12-1-1 is held invalid,
20 the following provisions are void:

21 (1) The amendments to IC 1-1-4-5 made by SEA 225-2004,
22 SECTION 1.

23 (2) The amendments to IC 6-1.1-18.5-7 made by SEA
24 225-2004, SECTION 2.

25 (3) The amendments to IC 36-1-2-4.2 made by SEA 225-2004,
26 SECTION 3.

27 (4) The amendments to IC 36-1-3-5 made by SEA 225-2004,
28 SECTION 4.

29 (5) The amendments to IC 36-1-3-9 made by SEA 225-2004,
30 SECTION 5.

31 (6) IC 36-12, except for this chapter.

32 SECTION 8. An emergency is declared for this act.

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SENATE MOTION

Madam President: I move that Senator Skillman be added as coauthor of Senate Bill 225.

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COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Senate Bill No. 225, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 5, line 29, after "1." insert **"(a)"**.

Page 5, between lines 32 and 33, begin a new paragraph and insert:

"(b) This article does not apply to a county containing a consolidated city."

Page 7, delete lines 36 through 42, begin a new paragraph and insert:

"Sec. 4. Appointments to the commission shall be made as follows:

- (1) Five (5) members appointed jointly by the city executive of each second class city located within the county.**
- (2) Five (5) members appointed jointly by the city legislative body of each second class city located within the county.**
- (3) One (1) member appointed jointly by the city executive of each third class city located within the county.**
- (4) One (1) member appointed jointly by the city fiscal body of each third class city located within the county.**
- (5) Five (5) members appointed by the county executive body.**
- (6) Five (5) members appointed by the county fiscal body.**
- (7) Two (2) members appointed jointly by the township executives of the townships located within the county.**
- (8) One (1) member appointed jointly by the township assessors located within the county."**

Delete page 8.

Page 9, line 1, delete "6." and insert **"5."**

Page 9, line 3, delete "7." and insert **"6."**

Page 9, line 5, delete "8." and insert **"7."**

Page 9, line 11, delete "9." and insert **"8."**

Page 9, line 14, delete "10." and insert **"9."**

Page 9, line 16, delete "11." and insert **"10."**

Page 9, line 30, delete "12." and insert **"11."**

Page 9, line 39, delete "13." and insert **"12."**

Page 10, line 1, delete "14." and insert **"13."**

Page 10, line 9, delete "15." and insert **"14."**

Page 10, line 23, delete IC 36-12-3-4(5), and insert **"IC 36-12-3-4"**.

Page 10, delete lines 25 through 36.

Page 10, line 37, delete "(c)" and insert **"Sec. 3."**

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Page 11, line 29, delete "Partisan" and insert "An"
and when so amended that said bill do pass.

(Reference is to SB 225 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 6, Nays 3.

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SENATE MOTION

Madam President: I move that Senate Bill 225 be amended to read as follows:

Page 5, delete lines 29 through 34, begin a new paragraph and insert:

"Sec. 1. This article applies only to Allen County.

Sec. 2. The general assembly finds that Allen County and Fort Wayne are subject to special circumstances that justify special legislation to allow them to change their government structure:

(1) Fort Wayne is the city with the second largest population in Indiana and comprises over sixty percent (60%) of the population of Allen County.

(2) Allen County is geographically the largest county in Indiana.

(3) Allen County constitutes a unique combination of urban, suburban, and rural geography.

(4) Fort Wayne is the economic and cultural center of a six (6) county region in Indiana as well as a part of southeast Michigan and northeast Ohio. Fort Wayne serves as a highway, railroad, and air transportation corridor for these areas.

(5) Fort Wayne has experienced accelerated growth as follows:

(A) The 1990 decennial census and 2000 decennial census figures indicate that Fort Wayne:

(i) increased its population by thirty-two thousand six hundred fifty-five (32,655) to a total population of two hundred five thousand seven hundred twenty-seven (205,727); and

(ii) increased its land area by sixteen and twenty-five hundredths (16.25) square miles to a total land area of seventy-eight and ninety-five hundredths (78.95) square miles.

(B) As of June 1, 2003, as a result of annexations that occurred after the 2000 decennial census, Fort Wayne increased:

(i) its population by an estimated fifteen thousand (15,000) to a total estimated population of two hundred twenty thousand (220,000); and

(ii) its land area by an estimated eleven (11) square miles to a total estimated land area of more than ninety (90) square miles.

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(C) As of January 1, 2006, as the result of another annexation of territory, Fort Wayne will increase:

- (i) its population by an estimated twenty-three thousand (23,000) to an estimated two hundred forty-three thousand (243,000); and
- (ii) its land area by an estimated twelve (12) square miles.

(6) Fort Wayne's rapid growth has created overlapping jurisdictions and duplication of services among various local governmental units and has made it increasingly difficult for these units to pay for the provision of services.

(7) Like Indianapolis, Fort Wayne is a dense metropolitan area that would benefit from a consolidation of government functions and more centralized control over the metropolitan area.

(8) Considerable community support exists from the business, political, civic, and educational sectors, and the general population to review the structure of local government in Allen County."

Page 5, line 35, delete "2." and insert "3."

Page 5, line 37, delete "3." and insert "4."

Page 5, line 39, delete "4." and insert "5."

Page 5, line 41, delete "5." and insert "6."

Page 6, line 4, delete "6." and insert "7."

Page 6, line 9, delete "7." and insert "8."

Page 6, line 12, delete "IC 36-12-4-3." and insert "IC 36-12-4-2."

Page 6, line 13, delete "8." and insert "9."

Page 6, line 20, delete "9." and insert "10."

Page 6, line 21, delete "10." and insert "11."

Page 6, line 24, delete "11." and insert "12."

Page 6, line 26, delete "12." and insert "13."

Page 7, line 23, delete "each" and insert "the".

Page 7, line 42, delete "each" and insert "the".

Page 8, line 1, delete "jointly".

Page 8, line 2, delete "each" and insert "the".

Page 8, between lines 6 and 7, begin a new line block indented and insert:

"(5) One (1) member appointed jointly by the town legislative body of each town located in the county."

Page 8, line 7, before "Five" delete "(5)" and insert "(6)".

Page 8, line 8, delete "(6)" and insert "(7)".

Page 8, line 9, delete "(7)" and insert "(8)".

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Page 8, line 9, delete "Two (2)" and insert **"Three (3)"**.

Page 8, line 11, delete "(8)" and insert **"(9)"**.

Page 8, between lines 16 and 17, begin a new paragraph and insert:

"Sec. 7. The commission shall select a chairperson and vice chairperson from among the membership of the commission."

Page 8, line 17, delete "7." and insert **"8."**

Page 8, line 23, delete "8." and insert **"9."**

Page 8, line 26, delete "9." and insert **"10."**

Page 8, line 28, delete "10." and insert **"11."**

Page 8, delete lines 38 through 41, begin a new line block indented and insert:

"(2) Fifty percent (50%) of the expenses shall be paid from the general fund of the second class city located in the county."

Page 8, line 42, delete "11." and insert **"12."**

Page 9, line 5, delete "an included" and insert **"the"**.

Page 9, line 5, after "second" insert **"class city"**.

Page 9, line 5, after "or" insert **"an included"**.

Page 9, line 9, delete "12." and insert **"13."**

Page 9, line 13, delete "13." and insert **"14."**

Page 9, line 21, delete "14." and insert **"15."**

Page 9, line 21, delete "IC 36-12-4-4," and insert **"IC 36-12-4-3,"**

Page 9, delete lines 33 through 36.

Page 9, line 37, delete "3." and insert **"2."**

Page 9, line 38, after "or excluded" insert **"third class"**.

Page 10, line 1, delete "4." and insert **"3."**

Page 10, delete lines 5 through 19.

Page 12, line 8, delete "committee" and insert **"commission"**.

Page 12, line 20, delete "committee" and insert **"commission"**.

Page 12, line 21, delete "committee" and insert **"commission"**.

Page 12, line 22, delete "committee" and insert **"commission"**.

Page 13, line 1, delete "each" and insert **"the"**.

Page 17, line 42, after "(6)" insert **"subject to subsection (c),"**.

Page 18, between lines 2 and 3, begin a new paragraph and insert:

"(c) A reorganized municipal corporation may impose property taxes for the purpose of paying debt service on bonds or other indebtedness transferred to the reorganized municipal corporation as described in subsection (b)(6) only in the geographic area as of the date the bonds were issued or the other indebtedness was incurred of the included municipal corporation that issued the bonds or entered into the other indebtedness."

Page 18, line 16, delete "or IC 6-1.1-19".

Page 18, between lines 17 and 18, begin a new paragraph and insert:

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"Chapter 9. Nonseverability

Sec. 1. For purposes of IC 1-1-1-8, if IC 36-12-1-1 is held invalid, the following provisions are void:

- (1) The amendments to IC 1-1-4-5 made by SEA 225-2004, SECTION 1.**
- (2) The amendments to IC 6-1.1-18.5-7 made by SEA 225-2004, SECTION 2.**
- (3) The amendments to IC 36-1-2-4.2 made by SEA 225-2004, SECTION 3.**
- (4) The amendments to IC 36-1-3-5 made by SEA 225-2004, SECTION 4.**
- (5) The amendments to IC 36-1-3-9 made by SEA 225-2004, SECTION 5.**
- (6) IC 36-12, except for this chapter."**

(Reference is to SB 225 as printed January 30, 2004.)

LONG

SENATE MOTION

Madam President: I move that Senator Skillman be removed as coauthor of Senate Bill 225.

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